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19 **UNITED STATES DISTRICT COURT**
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21 **NORTHERN DISTRICT OF CALIFORNIA**
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23 **SAN JOSE DIVISION**

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IN RE APPLE & AT&TM ANTI-TRUST
LITIGATION

Case No. 07-05152-JW

**DEFENDANT AT&T MOBILITY LLC'S
NOTICE OF MOTION AND MOTION
TO COMPEL ARBITRATION AND TO
DISMISS CLAIMS PURSUANT TO THE
FEDERAL ARBITRATION ACT**

Date: September 12, 2008
Time: 9:00 a.m.

Honorable James Ware

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on September 12, 2008, at 9:00 a.m., pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1–16, defendant AT&T Mobility LLC (“ATTM”) will move and hereby does move this Court for an order compelling plaintiffs Herbert Kliegerman, Paul Holman, Lucy Rivello, Timothy P. Smith, Michael G. Lee, Dennis V. Macasaddu, Mark G. Morikawa, Vincent Scotti, and Scott Sesso to arbitrate their claims or pursue them in small claims court and to dismiss their claims against ATTM.

ATTM brings this motion on the ground that the Federal Arbitration Act, 9 U.S.C. §§ 1–16, requires plaintiffs to pursue their claims in accordance with their arbitration agreements.

This motion is supported by the Memorandum of Points and Authorities, the Declarations of Neal S. Berinhout, Cynthia Hennessy, Richard A. Nagareda, and Kevin Ranlett, all exhibits thereto, and the [Proposed] Order filed concurrently herewith.

DATED: June 27, 2008

/s/ Donald M. Falk

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